

**Iowa Attorney General's Office  
Report to the General Assembly  
Mortgage Servicing Settlement Fund  
January 15, 2013**

**Introduction**

On February 9, 2012, Iowa Attorney General Tom Miller announced a \$25 billion nationwide Joint State-Federal Mortgage Servicing Settlement ("Settlement") reached by 49 states, the District of Columbia, and the federal government with the nation's five largest mortgage servicers (Bank of America, Citi, Chase, GMAC, and Wells Fargo). The Settlement was court approved in a Consent Decree ("Consent Decree") signed by a federal district court judge on April 5, 2012. The Settlement was the result of a 16-month investigation of foreclosure fraud and abuses and settlement negotiations led by Attorney General Miller. The Settlement was intended to being implemented over a 3-year period.

**2012 Legislative Action**

1. **Mortgage Servicing Settlement Fund ("Fund")**. In section 7(1) of HF 2465, the Legislature created a Fund comprised of the moneys to be received by the Attorney General in the Settlement. This is about \$16 million, representing the State Payment of about \$14.6 million and attorneys fees of \$1.4 million. Under section 7(1), the Attorney General is authorized by the Legislature to spend money in the Fund consistent with the terms of the Consent Decree. Under section 7(4)(a), the Attorney General is required to submit three **annual reports** to the General Assembly about how the money was expended to implement the Settlement.

In section 7(3) of HF 2465, the Legislature appropriated \$1million from the Fund to the Rebuild Iowa Infrastructure Fund. In section 10 of SF 2316, the Legislature appropriated \$5 million from the Fund to the Department of Education for infrastructure needs of community colleges.

2. **Banking Division Mortgage Servicing Settlement Fund**. In section 7(2) of HF 2465, another fund is established comprised of the \$1 million payment received by the Banking Division. Moneys in this fund are appropriated to the Division to be used as provided in a financial plan developed by the Superintendent of Banking and approved by the Department of Management to support state financial regulation, including oversight of mortgage lending and mortgage servicing, real estate and real estate appraisal, state chartered banks, and other financial services regulated by the division of banking. Moneys in the fund may also be used to support financial literacy efforts.

3. **Relevant Statutory Provisions – See Attachment 1.**

## **Expenditures from the Mortgage Servicing Settlement Fund Calendar Year 2012**

Pursuant to section 7(4)(a) of HF 2465, the Office of Attorney General ("Office") reports the following expenditures made by the Office in 2012 from the Mortgage Servicing Settlement Fund ("Fund") for the implementation, monitoring, or enforcement of the Settlement. All expenditures were made consistent with the terms of the consent decree, relevant portions of which are contained in Attachment 2.

With the exception of some costs incurred to handle intakes at the time the Settlement was announced, the expenditures were made during the last half of calendar year 2012.

1. **Iowa Mortgage Help.** This initiative was established in 2008 as a collaborative effort of the Attorney General's Office, Iowa Mediation Service ("IMS"), the Iowa Finance Authority ("IFA"), the Iowa Home Ownership Education Project ("IHOEP") and Iowa Legal Aid. Iowa Mortgage Help has helped thousands of Iowans with foreclosure problems and is widely viewed as one of the most successful mortgage foreclosure prevention efforts in the country. Money from the Settlement is distributed to these entities to ensure that Iowa homeowners receive the full benefit of the Settlement.

- ***IMS and local housing counseling agencies.*** During the period, **\$275,558** was paid to IMS and local housing counseling agencies. With the exception of some start-up costs paid to IMS, the local agencies and IMS were reimbursed through IFA on a case-by-case basis for (a) *Level I Counseling* which involves the gathering and evaluation of the homeowners' documents and financial counseling and (b) *Level II Lender Mediation* which involves negotiations between the lenders and homeowners to attempt to resolve foreclosure issues.
- ***Iowa Legal Aid.*** During the period, **\$183,805** was paid through IFA to Iowa Legal Aid on a case-by-case basis to provide *legal assistance* to homeowners facing mortgage foreclosure problems.
- ***IFA.***
  - (a) *Outreach.* During the period, **\$73,876** was paid to IFA for outreach efforts to inform Iowans about the Settlement and the services of Iowa Mortgage Help.
  - (b) *Administrative Costs.* During the period, **\$46,610** was paid to IFA for administrative costs.

2. **Attorney General Implementation of Settlement** During the period, **\$233,554** was used by the Office to pay the salary and benefits of an executive officer who monitored the *implementation* of the Settlement in Iowa, an executive officer who works with the IMS on mortgage issues, and two consumer protection investigators who work on mortgage cases.

3. **Research and Analysis of Mortgage Foreclosure Issues.** During the period, a contract for **\$70,200** was awarded to the University of Iowa Public Policy Center to develop and

implement a program to make better *foreclosure data* available to Iowans on a county-by-county basis, and aggregated for the state as a whole.

4. **Center for State Enforcement of Antitrust and Consumer Laws (“State Center”)**. During the period, **\$100,000** was paid to the State Center, a non-profit organization. Of this amount, **\$31,565** was to reimburse the State Center for money advanced to help negotiate the Settlement and the remainder is to help with future enforcement of the Settlement

5. **Elderly Victim Fund**. During the period, **\$1million** was deposited by the Attorney General in the Elderly Victim Fund pursuant to Iowa Code section 714.16A to be used for the investigation and prosecution of *frauds against the elderly*.

6. **Consumer Education and Litigation Fund**. Under the Consent Decree, the State of Iowa was awarded **\$1.4 million** in attorneys fees. In accordance with Iowa Code section 714.16C, these attorneys fees were deposited by the Attorney General in the Consumer Education and Litigation Fund to be used for public education relating to *consumer fraud*, mortgage issues, and enforcement of Iowa Code section 714.16 (Iowa’s consumer fraud statute).

### **Implementation of Settlement Home Owner Benefits Already Received by Iowans**

The implementation of the Settlement is well underway as the following numbers indicate:

1. **Direct Relief**. When the Settlement was announced, Iowa homeowners were expected to receive an estimated \$17.5 million in direct relief. In November, Attorney General Miller announced that direct benefits to Iowans had already exceeded \$19 million. A breakdown of Iowa relief indicated the following:

- The five servicers provided \$19,205,972 in relief to 579 Iowa homeowners.
- The average relief in Iowa was \$33,171 per borrower.
- The servicers reported offering approximately \$3.1 million in principal reductions that 87 Iowa homeowners had accepted. Of those, 65 borrowers had begun trial modifications.
- 46 Iowa homeowners received a total of \$1,553,991 in principal reductions, for an average of \$33,782 per borrower.

The direct relief was provided largely through an array of loan modifications, including principal reductions and refinancing. Other forms of relief include short sales and transitional assistance, forbearance of principal for unemployed borrowers, benefits for service members who are forced to sell their home at a loss as a result of a permanent change in station order, and other programs.

2. **Iowans Who Lost Their Homes.** Another \$7 million is expected to be paid to Iowa borrowers who lost their home to foreclosure between January 1, 2008, and December 31, 2011, and their loan was serviced by one of the settling servicers. The minimum amount of payment is \$840 and is estimated to be considerably higher based on participation. The deadline for applying is January 18, 2013. Already, more than 5,500 Iowans have applied.

3. **Servicing Standards.** In addition to providing the borrower relief, the Settlement also required servicers to adopt more than 300 new servicing standards. The new standards are designed to address the issues that led to the Settlement, including the fraudulent robo-signing of foreclosure documents. The servicing standards are also expected to improve how servicers treat borrowers. For example, the standards require single points of contact, establish deadlines for responding to customers, and mortgage servicers can no longer foreclose on a borrower while simultaneously negotiating a loan modification, a practice known as "dual tracking."

### **Projected Expenditures in 2013 and 2014**

Under section 7(3)(a) of HF 2465, the Office is directed to project expenditures to be made to implement, monitor, or enforce the Settlement in 2013 and 2014. Below are the estimates:

#### **Calendar Year 2013**

1. **Iowa Mortgage Help.**

- IMS and Local Counseling Agencies - \$970,000
- Iowa Legal Aid - \$670,000
- IFA
  - (a) Outreach - \$350,000
  - (b) Emergency Foreclosure Assistance Project. This Project is intended to help Iowans who have short-term difficulties that have put their mortgage in jeopardy. - \$750,000
  - (c) Administrative Costs - \$114,800

2. **Attorney General Implementation** - \$350,000

3. **Research and Analysis of Mortgage Foreclosure Issues** - \$130,000

## **Calendar Year 2014**

### **1. Iowa Mortgage Help.**

- IMS and Local Counseling Agencies - \$970,000
- Iowa Legal Aid - \$670,000
- IFA
  - (a) Outreach - \$10,000
  - (b) Emergency Foreclosure Assistance Project - \$250,000
  - (c) Administrative Costs - \$114,800

### **2. Attorney General Implementation - \$350,000**

### **3. Research and Analysis of Mortgage Foreclosure Issues - \$100,000**

## ATTACHMENT 1 – RELEVANT STATUTORY PROVISIONS

### HF 2465

#### Sec. 7. JOINT STATE-FEDERAL MORTGAGE SERVICING SETTLEMENT MONEYS — APPROPRIATIONS.

1. A **mortgage servicing settlement fund** is established, separate and apart from all other public moneys or funds of the state, under the control of the department of justice. The department of justice shall deposit moneys received by the department from the joint state-federal mortgage servicing settlement into the fund. The department of justice is authorized to make expenditures of moneys in the fund consistent with the terms of the consent decree signed in federal court on April 5, 2012. Any unencumbered or unobligated moneys remaining in the fund on June 30, 2015, shall be transferred to the general fund of the state.
2. A **banking division mortgage servicing settlement fund** is established, separate and apart from all other public moneys or funds of the state, under the control of the division of banking of the department of commerce. The banking division shall deposit moneys received by the division from the joint state-federal mortgage servicing settlement into the fund. Moneys deposited in the fund are appropriated to the banking division to be used as provided in a financial plan developed by the superintendent of banking and approved by the department of management to support state financial regulation, including oversight of mortgage lending and mortgage servicing, real estate and real estate appraisal, state chartered banks, and other financial services regulated by the division of banking. Moneys in the fund may also be used to support financial literacy efforts. The financial plan may be updated periodically as provided by the superintendent and approved by the department of management. Notwithstanding section 8.33, moneys in the fund that remain unencumbered or unobligated at the close of a fiscal year shall not revert but shall remain available for expenditure for the purposes designated until the close of the fiscal year that begins July 1, 2014. Any unencumbered or unobligated moneys remaining in the fund on June 30, 2015, shall be transferred to the general fund of the state.
3. There is appropriated from the mortgage servicing settlement fund to the department of management for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purposes designated:  
For deposit in the **rebuild Iowa infrastructure fund**:..... \$ 1,000,000
4. a. The **department of justice shall submit a report** to the general assembly detailing the expenditure of moneys from the mortgage servicing settlement fund by the department of justice for the previous calendar year and how the expenditures related to the implementation, monitoring, or enforcement of the settlement and how expenditures in the current and succeeding calendar year will be used for implementation, monitoring, or enforcement of the settlement. The initial report shall be submitted on or before January 15, 2013.  
b. The **division of banking shall submit a report** to the general assembly detailing the expenditure of moneys from the banking division mortgage servicing settlement fund by the division of banking for the previous calendar year and how the expenditures related to the implementation, monitoring, or enforcement of the settlement and how expenditures in the current and succeeding calendar year will be used for implementation, monitoring, or enforcement of the settlement. The initial report shall be submitted on or before January 15, 2013.

### SF 2316

#### MORTGAGE SERVICING SETTLEMENT FUND — APPROPRIATION — DEPARTMENT OF EDUCATION

Sec. 10. MORTGAGE SERVICING SETTLEMENT FUND. There is appropriated from the mortgage servicing settlement fund to the department of education for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following amount, or so much thereof as is necessary, to be used for the purpose designated:

For major renovation and major repair needs, including health, life, and fire safety needs and for compliance with the federal Americans with Disabilities Act, and for routine maintenance and building operations, for buildings and facilities under the purview of the **community colleges**. ... \$ 5,000,000

## ATTACHMENT 2 – RELEVANT PORTIONS OF CONSENT DECREE

### Iowa- State Payment

The Escrow Agent shall distribute the funds according to written direction received from the Attorney General of Iowa. The payment shall be used, *at the sole discretion of the Attorney General of Iowa*, for any use permitted by law or this Consent Judgment, including but not limited to:

1. Purposes intended to avoid preventable foreclosures, to ameliorate the effects of the foreclosure crisis, to enhance law enforcement efforts to prevent and prosecute financial fraud and unfair or deceptive acts or practices, and to compensate the State of Iowa for costs resulting from the alleged unlawful conduct of the Defendant. Such permissible purposes for allocation of the funds further include, but are not limited to, supplementing the amounts paid to homeowners under the Borrower Payment Fund, funding for housing counselors, state and local foreclosure assistance hotlines, state and local foreclosure mediation programs, legal assistance, housing remediation and anti-blight projects, funding for training and staffing of financial fraud or consumer protection enforcement efforts, and civil penalties.
2. Investigative and administrative costs in connection with the matters addressed herein, including costs incurred before and after the signing of this Consent Judgment.
3. Public education relating to consumer fraud, mortgage, housing and financial issues and for enforcement of Iowa Code section 714.16, as referenced in Iowa Code section 714.16A.
4. Any other lawful purpose.

### Attorneys Fees

c. In accordance with written instructions from the State members of the Monitoring Committee, the Escrow Agent shall distribute a total of \$10,000,000.00 to the members of the Executive Committee and the Ameriquest Financial Services Fund ("AMFSF") **for reimbursement of costs and attorneys fees** incurred during the investigation of this case and the settlement negotiations and for subsequent expenditures as authorized by each Attorney General. Such payments shall be made as designated by the Iowa Attorney General as the Chairman of the Executive Committee, and shall be made to the State Attorneys General of Arizona, California, Colorado, Connecticut, Delaware, Florida, Illinois, Iowa, Massachusetts, North Carolina, Ohio, Tennessee, Texas, and Washington and the Maryland Department of Labor, Licensing and Regulation and the Ameriquest Financial Services Fund. The authorized representatives of each state attorney general, the Maryland Department of Labor, Licensing and Regulation and the AMFSF will provide a letter to the Escrow Agent directing how each separate payment should be made.

### Banking Division

- d. In accordance with written instructions from the State members of the Monitoring Committee, the Escrow Agent shall distribute \$65,000,000.00 to the Conference of State Bank Supervisors (CSBS). CSBS shall use \$15,000,000 to establish the "State Financial Regulation Fund," a fund to be managed and used by CSBS to support and improve state financial regulation and supervision. From the balance, CSBS shall transfer **\$1,000,000 per state to the state financial regulators who have signed this Consent Judgment**. Where multiple agencies within a single state claim regulatory jurisdiction, CSBS shall transfer that state's funds as provided in an agreement between or among those regulatory agencies. In addition, state financial regulators may, at their discretion, enter into an agreement with CSBS for the management and disbursement of all or a portion of the funds paid to them. If, for any reason, a state financial regulator elects to forego receipt of their transfer payment or in the case of a participating state where the state financial regulator declines to sign this Consent Judgment, such funds shall revert to the State Financial Regulation Fund.